

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 7017

August 21, 2023

SUMMARY OF BILL: Increases the penalty by one classification for the offenses of stalking, aggravated stalking, or especially aggravated stalking if the offense was committed because of the victim's status as a healthcare provider who performs abortions. Classifies the offense as a hate crime. Effective October 1, 2023.

FISCAL IMPACT:

Increase State Expenditures – \$23,600 Incarceration

**Decrease Local Expenditures – \$1,400/FY23-24
\$1,800/FY24-25 and Subsequent Years**

Assumptions:

Enhancing the Penalty for Stalking, from a Class A Misdemeanor to a Class E Felony:

- Pursuant to Tenn. Code Ann. § 39-17-315(b)(2), it is a Class A misdemeanor for a person to intentionally engage in stalking.
- The proposed legislation enhances the penalty to a Class E felony if the offense was committed because of the victim's status as a healthcare provider who performs abortions.
- Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of 41.9 Class A misdemeanor convictions of stalking in each of the last 10 years.
- This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are 419 convictions (41.9 / 10.0%) per year for Class A misdemeanor stalking.
- Pursuant to Tenn. Code Ann. § 39-15-213(b), criminal abortion is a Class C felony.
- Pursuant to Public Chapter 313 of 2023, the offense of criminal abortion does not include an abortion that is performed or attempted by a licensed physician in a licensed hospital or ambulatory surgical treatment center and the physician determined, using reasonable medical judgment that the abortion was necessary to prevent the death of the pregnant woman or to prevent serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.
- The number of healthcare providers who perform abortions in Tennessee is unknown; however, due to the limited circumstances in which an abortion can be performed, it is reasonably assumed there are few healthcare providers who perform abortions in this

state and who could therefore be potential victims of stalking, aggravated stalking, or especially aggravated stalking because of their status as an abortion provider.

- This analysis assumes one half of one percent or 2.1 (419 x 0.05%) convictions for the Class A misdemeanor offense of stalking will be enhanced to a Class E felony as a result of this legislation.
- The proposed legislation will result in 2.1 admissions annually serving 0.59 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 1.07 percent per year (from 2019 to 2022).
- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 23,100	FY24-25
\$ 23,400	FY25-26
\$ 23,600	FY26-27

Enhancing the Penalty for Stalking, from a Class E Felony to a Class D Felony:

- Pursuant to Tenn. Code Ann. § 39-17-315(b)(3), it is a Class E felony offense for a person to intentionally engage in stalking if the defendant, at the time of the offense was required to or was registered with the TBI as a sexual offender, violent sexual offender or violent juvenile sexual offender.
- The proposed legislation enhances such penalty to a Class D felony offense if the offense was committed because of the victim's status as a healthcare provider who performs abortions.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 0.5 admissions per year over the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-17-315(b)(3) for felony stalking.
- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.

Enhancing the Penalty for Aggravated Stalking, from a Class E Felony to a Class D Felony:

- Pursuant to Tenn. Code Ann. § 39-17-315(c)(2), aggravated stalking is a Class E felony offense.
- The proposed legislation enhances such penalty to a Class D felony offense if the offense was committed because of the victim's status as a healthcare provider who performs abortions.
- Based upon information provided by the DOC, there has been an average of 8.8 admissions per year over the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-17-315(c)(2) for aggravated stalking.

- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.

Enhancing the Penalty for Especially Aggravated Stalking, from a Class C Felony to a Class B Felony and Total State Expenditures:

- Pursuant to Tenn. Code Ann. § 39-17-315(d)(2), especially aggravated stalking is a Class C felony offense.
- The proposed legislation enhances such penalty to a Class B felony offense if the offense was committed because of the victim's status as a healthcare provider who performs abortions.
- Based upon information provided by the DOC, there has been an average of 1.5 admissions per year over the last 10 years for the Class C felony offense under Tenn. Code Ann. § 39-17-315(d)(2) for especially aggravated stalking.
- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.
- Pursuant to Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$23,600.

Decrease in Class A Misdemeanors:

- It is assumed that an individual convicted of a Class A misdemeanor offense will spend an average of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- The recurring mandatory decrease in expenditures to local governments is estimated to be \$1,375 [(2.1 convictions x \$58.21 x 15) x 75%] in FY23-24 and \$1,834 (2.1 convictions x \$58.21 x 15) in FY24-25 and subsequent years.
- Based on the Fiscal Review Committee's 2008 study and the AOC's 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal analysis are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid, with the first letters of each name being capitalized and prominent.

Krista Lee Carsner, Executive Director

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